



CITY PLANNING COMMISSION

June 8, 2022 / Calendar No. 16

N 220219 ZRM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying a special permit provision of Article IX, Chapter 6 (Special Clinton District).

This application for a zoning text amendment was filed by the New York City Department of Housing Preservation and Development (HPD) on November 24, 2021. The zoning text amendment, along with the related actions, would facilitate the construction of a nine-story, mixed-use development containing 112 permanently affordable dwelling units, approximately 67 of which would be supportive housing, along with commercial and community facility space, at 806 Ninth Avenue in the Clinton/Hell's Kitchen neighborhood, Borough of Manhattan, Community District 4.

RELATED ACTIONS

In addition to the zoning text amendment that is the subject of this report (N 220219 ZRM), implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- C 220220 ZMM** Zoning map amendment eliminating an R8 and R8/C1-5 zoning districts and establishing a C6-2 zoning district
- C 220221 (A) ZSM** Special permit pursuant to Zoning Resolution Section 96-112 to allow for modifications to Article IX, Chapter 6 (Special Clinton District) regulations
- C 220222 PPM** Disposition of city-owned property

C 220223 PQM Acquisition of city-owned property

BACKGROUND

A full background discussion and description of this application appears in the report for the related special permit (C 220221 (A) ZSM).

ENVIRONMENTAL REVIEW

This application (N 220219 ZRM), in conjunction with the applications for the related actions was reviewed pursuant the New York State Environmental Quality Review Act (SEQR), and the SEQR regulations set forth in Volume 6 of the New York Code of Rules and Regulations (NYCRR), Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 20HPD053M. The lead agency is HPD.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on December 23, 2021.

PUBLIC REVIEW

On January 3, 2022, this application (N 220219 ZRM) was referred for information and review in accordance with the procedures for non-ULURP matters in conjunction with the applications for the related actions (C 220220 ZMM, C 220221 (A) ZSM, C 220222 PPM, and C 220223 PQM), which were certified as complete by the Department of City Planning and duly referred to Community Board 4 and the Manhattan Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Review

Manhattan Community Board 4 held public hearings on this application and the related actions on March 2, 2022. On March 2, 2022, by a vote of 32 in favor, seven opposed, and none abstaining, adopted a resolution recommending disapproval of the application with conditions. A summary of

the Community Board's recommendations appears in the report for the related special permit (C 220221 (A) ZSM).

Borough President Review

The application was considered by the Manhattan Borough President, who on April 13, 2022, issued a recommendation approving the application with conditions. A summary of the Borough President's recommendations appears in the report for the related special permit (C 220221 (A) ZSM).

City Planning Commission Public Hearing

On April 13, 2022 (Calendar No. 2), the City Planning Commission scheduled April 27, 2022, for a public hearing on this application (N 220219 ZRM) and the related applications (C 220220 ZMM, C 220221 (A) ZSM, C 220222 PPM, and C 220223 PQM), The hearing was duly held on April 27, 2022 (Calendar No. 14). There were five speakers in favor of the application and 11 in opposition, as described in the report on the related special permit application (C 220221 (A) ZSM), and the hearing was closed.

CONSIDERATION

The Commission believes that the zoning text amendment (N 220219 ZRM), as modified herein, in conjunction with the related applications (C 220220 ZMM, C 220221 (A) ZSM, C 220222 PPM, and C 220223 PQM), is appropriate. A full consideration and analysis of the issues and the reasons for approving the application appears in the report on the related application (C 220221 (A) ZSM).

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement, for which a Negative Declaration was issued on December 23, 2021 with respect to this application (CEQR No. 20HPD053M), the City Planning Commission finds that the actions described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently modified, is further amended as follows:

- Matter underlined is new, to be added;
- Matter ~~struck out~~ is to be deleted;
- Matter within # # is defined in Section 12-10;
- * * * indicates where unchanged text appears in the Zoning Resolution.

**ARTICLE IX
SPECIAL PURPOSE DISTRICTS**

**Chapter 6
Special Clinton District**

* * *

**96-10
PRESERVATION AREA**

* * *

**96-104
Height and setback regulations**

The underlying height and setback regulations shall not apply, except as set forth in Sections 23- 62 or 33-42 (Permitted Obstructions), as applicable. In lieu thereof, the height and setback provisions of this Section shall apply. All height shall be measured from #curb level#.

* * *

~~However, the City Planning Commission, by special permit, may modify the special height and setback regulations set forth in this Section. In order to grant such special permit, the Commission shall find that the distribution of #bulk# permits adequate access of light and air to surrounding #streets# and properties and that the maximum height does not exceed 99 feet beyond 100 feet of a #wide street#, and 115 feet within 100 feet of a #wide street#.~~

~~The Commission may prescribe appropriate conditions and safeguards to protect and minimize any adverse effects on the character of the surrounding area.~~

* * *

96-112
Special permits

For #developments# or #enlargements# within the Preservation Area, or subject to the regulations of paragraph (a) of Section 96-31 (Special Regulations in R8 Districts), the City Planning Commission may allow, by special permit, the modifications set forth in paragraph (a) of this Section, provided that the findings in paragraph (b) are met.

(a) The Commission may allow modifications to:

- (1) the special height and setback regulations set forth in Section 96-104 (Height and setback regulations), provided that the height of the #building# shall not exceed 115 feet within 100 feet of a #wide street#, and 99 feet beyond 100 feet of a #wide street#; and
- (2) the other applicable #bulk# regulations of this Resolution, except #floor area ratio#, for #buildings# located on a #zoning lot# that has an area of at least 40,000 square feet, occupies the frontage of a #wide street#, and contains a mass transit or water supply support facility.

(b) In order to grant such special permit, the Commission shall find that:

- (1) for height modifications to paragraph (a)(1) of this Section, the distribution of #bulk# permits adequate access to light and air to surrounding #streets# and properties;
- (2) for other #bulk# modifications:
 - (i) there are physical conditions, including the presence of existing #buildings or other structures#, public infrastructure, or topographical features, that create practical difficulties in complying with the #bulk# regulations that would adversely affect the #building# configuration or site plan;
 - (ii) the proposed modifications will not unduly obstruct access to light and air to adjoining properties or #streets#;
 - (iii) the proposed scale and placement of the #development# or #enlargement# relates harmoniously with the surrounding area; and
 - (iv) the requested modification is reasonable in relation to the practical difficulties on the site or the public benefit derived from the #development# or #enlargement#.

The Commission may prescribe appropriate conditions and safeguards to protect and minimize any

adverse effects on the character of the surrounding area.

96-20
PERIMETER AREA

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The above resolution (N 220219 ZRM), duly adopted by the City Planning Commission on June 8, 2022 (Calendar No. 16) is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

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RAJ RAMPERSHAD, *Commissioners*

LARISA ORTIZ, *Commissioner, ABSTAINING*